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CLERK U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
SANTA ANA

BY                     

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

KEVIN HURLEY,

Plaintiff,

vs.

JEFF SMITH; DENISE SMITH; GAIL  
A. SMITH; DOES 1 TO 20,

Defendants.

CASE NO. SACV 13-01364UA (DUTYx)

ORDER SUMMARILY REMANDING  
IMPROPERLY-REMOVED ACTION

The Court remands this unlawful detainer action to state court summarily because defendants Jeff Smith, Denise Smith, and Gail A. Smith ("Defendants") removed it improperly.

On September 3, 2013, Defendants, having been sued in what appears to be a routine unlawful detainer action in California state court, lodged a Notice of Removal of that action to this Court and also presented an application to proceed *in forma pauperis*. The Court has denied the latter application under separate cover because the action was not properly removed. To prevent the action from remaining in jurisdictional limbo, the Court issues this Order to remand the action to state court.

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1 Simply stated, Plaintiff could not have brought this action in federal court in the  
2 first place, and Defendants do not competently allege facts supplying either diversity or  
3 federal-question jurisdiction. Therefore, removal is improper. 28 U.S.C. § 1441(a); *see*  
4 *Exxon Mobil Corp. v. Allapattah Svcs., Inc.*, 545 U.S. 546, 563, 125 S. Ct. 2611, 162 L.  
5 Ed. 2d 502 (2005). Even if complete diversity of citizenship exists, the amount in  
6 controversy does not exceed the diversity-jurisdiction threshold of \$75,000. *See* 28  
7 U.S.C. §§ 1332, 1441(b). On the contrary, the unlawful-detainer complaint recites that  
8 the amount in controversy does not exceed \$10,000. Nor does Plaintiff's unlawful  
9 detainer action raise any federal legal question. *See* 28 U.S.C. §§ 1331, 1441(b).

10 Defendants are further notified and warned that any subsequent attempts to  
11 remove the underlying state unlawful detainer action to this Court will be improper and  
12 will constitute vexatious conduct that the Court will address by way of punitive remedial  
13 measures, which may include having Defendants designated as vexatious litigants and  
14 barred from commencing any further removal actions with respect to the underlying state  
15 unlawful detainer action.

16 Accordingly, IT IS ORDERED that (1) this matter be REMANDED to the  
17 Superior Court of California, Orange County, 4601 Jamboree Road, Newport Beach,  
18 California, 92660, for lack of subject matter jurisdiction pursuant to 28 U.S.C.  
19 § 1447(c); (2) that the clerk send a certified copy of this Order to the state court; and (3)  
20 that the clerk serve copies of this Order on the parties.

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22 IT IS SO ORDERED.

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24 DATED: 9/11/13

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28 GEORGE H. KING  
CHIEF JUDGE